

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ISACK KOUSNSKY, Plaintiff, v.)	Case No. 1:13-cv-09176-AKH
AMAZON.COM, INC.,)	
PYRAMID AMERICA, LP,)	ECF Case
EBAY INC., and)	
ART.COM INC., Defendants.)	
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**PLAINTIFF'S REPLY TO MOTION
TO DISMISS THE COMPLAINT AS TO DEFENDANT EBAY**

Plaintiff, by its counsel, submits the following: Plaintiff has reviewed the papers submitted by Defendant eBay, except the Declaration of Robert Tronnes (and exhibit thereto), which were not furnished to Plaintiff by the Court's CM/ECF system, or otherwise, in any event.

On August 29, 2013, Plaintiff electronically and by letter notified Defendant eBay about the illegal activity on eBay's websites with specific descriptions of illegal sales of Plaintiff's images. Plaintiff received a non-responsive answer.

Plaintiff filed its Complaint on December 29, 2013. Thereafter, Plaintiff and his counsel were invited to, and participated in a conference telephone call with eBay's counsel. It was explained that Plaintiff is an Israeli whose native language is not English, and further, it was requested that counsel for eBay thoroughly explain its position so that Plaintiff would comprehend Defendant eBay's position.

Counsel explained that Defendant eBay does not like, and avoids going to trial, and that Defendant eBay prefers to settle lawsuits filed against it. During the call, no offer of settlement was made. However, counsel for eBay expressed total familiarity with the Complaint. Moreover, no doubts were expressed about the legitimacy of Plaintiff's Complaint.

During the period from August 2013, to March 4, 2014, Defendant eBay continued to sell Plaintiff's copyrighted images, which sales were never authorized in any contract, express or otherwise, between Plaintiff and Defendant eBay. Before the March 4, 2014 conference call, perhaps as early mid-February, 2014, Plaintiff believes that Defendant eBay commenced scrubbing its websites of the illegal images, and wiped the evidence, that Defendant eBay was offering Plaintiff's copyrighted images for sale.

eBay is a mega-corporation that represents retail, banking, communications, and other goods and services. Plaintiff experienced severe injuries from Defendant eBay's fraud and misconduct.

The undersigned counsel prides himself in supporting Plaintiff against Defendant eBay even though the undersigned lacks the resources of the caliber of his colleagues representing Defendant eBay.

Before the Complaint, Plaintiff and Plaintiff's counsel believed that a reputable online company would accept Plaintiff's Complaint as many other companies likewise do. However, Defendant eBay

decided, in the darkness of the night, and in the fog of the day, like a reptile painted with metallic colored rings, slithering through the wheat grass, now to avoid a legitimate Complaint filed in this Court.

Plaintiff is perplexed and surprised that Defendant eBay, who utilizes the services of a carrier agent authorized by the US Postal Service, FedEx and UPS, to deliver safely, securely, and reliably, is now claiming that the carrier agent here is not sufficient for Defendant eBay to honor Plaintiff's Complaint, even though Plaintiff got the Complaint to Defendant eBay to the right end. It also should be noted that Plaintiff's schedule is due to Plaintiff's personal commitment to fulfill family obligations to tend to his young son, Abraham, of 17 months, and to his wife, who is expecting, both of whom reside in Florida.

Plaintiff is respectfully requesting permission from the Court to allow Plaintiff to elect, in its discretion, the opportunity to serve justice, and to effectuate proper and competent service on Defendant eBay.

Dated: New York, New York

May 9, 2014

Respectfully submitted,

/s/ Freddie J. Berg

Freddie J. Berg

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New York, NY 10002

Tel: 646-599-3350

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on May 9, 2014, I will electronically file the foregoing with the Clerk of the Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Randi W. Singer, Esq.

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Attorneys (Limited Appearance) for Defendant eBay

Dated: New York, New York,

May 9, 2014

/s/ Freddie J. Berg

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